

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JUL 07 2009

JOHN F. CORCORAN, CLERK
BY: *S. Shuman*
DEPUTY CLERK

UNITED STATES OF AMERICA,)

v.)

KEITH LEE BURNS.)

Case No. 7:09-cr-016

ORDER

This case is presently before the court on Defendant Keith Lee Burns' Motion to Dismiss (Dkt. No. 18). Most of the issues raised in the Motion were rendered moot by the recent Fourth Circuit opinion U.S. v. Gould, ___ F.3d ___, 2009 WL 1703205 (4th Cir. June 18, 2009). Left remaining before the court are Defendant's claims regarding venue and the nondelegation doctrine of the Constitution. The court heard oral argument on these issues on July 6, 2009.

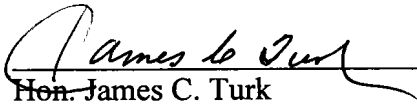
Adopting similar reasoning as U.S. v. Roberts, No. 6:07-CR-70031, 2007 WL 2155750, at *3-4 (W.D.Va. July 27, 2007) and U.S. v. Turner, No. 4:08-CR-00034-01, 2009 WL 1650885, at *5-6 (W.D.Va. June 12, 2009), the court rejects Defendant's claim of improper venue. Pursuant to similar reasoning as U.S. v. Hinen, 487 F. Supp. 2d 747, 751-53 (W.D.Va. May 12, 2007), rev'd on other grounds sub nom. U.S. v. Hatcher, 560 F.3d 222 (4th Cir. 2009); see also U.S. v. Howell, No. CR07-2013-MWB, 2008 U.S. Dist. LEXIS 7810, at *21-25 (N.D. Iowa Feb. 1, 2008) (citing numerous cases uniformly rejecting a similar nondelegation argument), the court also rejects Defendant's nondelegation argument.

Accordingly, it is hereby

ADJUDGED and ORDERED

that Defendant's Motion to Dismiss is **DENIED**. The Clerk of Court is directed to send a copy of this Order to all counsel of record in this matter.

ENTER: This 7th day of July, 2009.


Hon. James C. Turk
Senior United States District Judge